

*Chrono*

SECOM-D-272  
26 August 1977

MEMORANDUM FOR: Acting Deputy to the DCI for the  
Intelligence Community

FROM :   
Chairman, Security Committee

SUBJECT : Draft Executive Order on Personnel Security

1. This is to alert you to a potential problem which has been and may again become of direct concern to the DCI.

2. Last fall OMB circulated a draft revision of Executive Order 10450 to establish "suitability requirements for Government employment." That was the outcome of an effort ("Project Ten") begun in mid-1974 under the auspices of the Domestic Council's Committee on the Right of Privacy. The Project Ten task force (from Civil Service, State, Treasury, Justice, and chaired by Defense) did not provide for Intelligence Community input to the drafting process. That task force concluded, reasonably enough, that existing personnel security practices in the Government vary excessively, and are sometimes insufficient to provide adequate security assurances. Their draft revision of E.O. 10450, however, went much too far in trying to prescribe uniformity and provide for employee and applicant rights of notice, rebuttal, and appeal. The DCI objected strongly to the draft Order, noting the inadequacy of the proposed standards for access to sensitive intelligence information and the apparent conflict between the draft Order and his statutory termination authority (copy of his memorandum at Attachment A). Shortly after the DCI letter was sent, OLC contacted the attorney in OMB who was staffing the proposed Order. He was very unreceptive to OLC's suggestion that a meeting be arranged to discuss the serious objections to the draft (Justice as well as DCI), and made it clear that OMB would run the whole show--considering agency comments and revising the draft as it saw fit. The OMB General Counsel next wrote the DCI asking for particulars on changes the Intelligence Community believed needed to make the draft Order acceptable. The DCI did so (copy at Attachment B); asked that he be kept informed of future developments in this area; and stated his desire for Intelligence Community requirements to be reflected fully in the later draft, or, absent such, that the Community be exempted from the Order's provisions. Nothing further was heard of this matter for several months.

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3. In early 1977, the Security Committee, recognizing that we needed a current evaluation of what personnel security investigative procedures were necessary and useful, arranged for a pilot study of such among Community components. The study, done during the March-May 1977 period, did not include enough cases to justify final conclusions, but highly tentative judgments suggest that neither the Community's standards expressed in DCID 1/14 nor the proposed Order's standards are as closely keyed to current circumstances as they should be (the DCID seems closer to the mark than the draft Order). We hope to obtain Security Committee concurrence to extend the study to obtain enough data to justify arguments for new personnel security investigative criteria, and to have the study cover all Community agencies (CIA did not fully participate in the spring study). We will have to have a comprehensive study and analysis of our own if we expect to rebut effectively the arguments of Civil Service and Defense on what is and is not needed in personnel security coverage.

4. The basic issue surfaced again in June 1977 in the PRM-29 exercise to review and revise the security classification system. The Defense representative on the PRM-29 Ad Hoc Committee argued that the new Executive Order on security classification should prescribe uniformity in personnel security standards. His goal was uniformity at the standards of the draft revision of E.O. 10450. The PRM-29 Ad Hoc Committee decided against him, but agreed that the wide disparity in personnel security standards for access to information of the same classification level was unacceptable. The report to the SCC on PRM-29 deliberations recommended SCC approval of expanding the effort to revise E.O. 10450 so as to cover personnel security for all needing access to classified information--Government employees, active duty military, and contractor employees. The SCC concurred. We expected that this expansion of the subject (E.O. 10450 covers only civilian employees; contractors are covered by E.O. 10865; military personnel by Defense regulations) would logically entail setting up a new working group to examine the matter from the new, broader context. So far, not so. At the 25 August 1977 meeting of the drafting committee for the new Order on security classification, [ ] asked about the status of this matter. Mr. Kienlen, OMB, said he was responsible for revising the E.O. 10450 draft; that he was close to having a finished version, which would be sent out by OMB for formal comment when completed; and that he had no plans to set up any meetings to consult with agencies which had concerns in this area. Mr. Kienlen has no background in intelligence or security. The bottom line here appears to be that the ongoing approach to revising the Order on personnel security is likely to give us a new draft not much more responsive to the Community's needs than was the late 1976 version.

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5. You may wish to bring this potential problem to the DCI's attention, and suggest to him that he contact OMB or the NSC informally on this matter to ask for a more open process involving the Community. I am concerned that if the process is not fully responsive to Community interests and needs, the new Order in personnel security may cloud or override provisions in E.O. 11905 which give the DCI authority to set security standards for access to foreign intelligence.

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Attachments:

- A. Ltr to Hon. Lynn, dated 19Oct76
- B. Ltr to Hon. Lynn, dated 23Dec76  
(w/o enclosures)

SUBJECT: Draft Executive Order on Personnel Security

Distribution:

- Orig. - Addressee w/atts.
- 1 - IC Registry w/o atts.
- 1 - SECOM Subj. File w/atts.
- 1 - SECOM Chrono w/atts.

DCI/IC/SECOM  26Aug77

25X1

19 OCT 1976

Honorable James T. Lynn, Director  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to the letter of 6 August 1976, from your General Counsel, requesting my comments on the proposed Executive Order entitled "Suitability Requirements for Government Employment." A careful review of the draft Order has led me to conclude that its standards and procedures do not afford adequate protection to the Government's sensitive foreign intelligence information or activities.

In light of my statutory and executive responsibilities to protect intelligence sources and methods and analytical procedures, it is of deep concern to me that only those persons of the highest degree of loyalty and trustworthiness be granted access to foreign intelligence data requiring protection. The minimum personnel security standards and procedures governing access to Sensitive Compartmented Information are contained in Director of Central Intelligence Directive No. 1/14, which was issued pursuant to Executive Order 11905, Section 102 of the National Security Act of 1947, and National Security Council Directives. DCID No. 1/14 applies to all Government personnel and private individuals requiring access to such information.

The proposed Order strikes at the heart of the process of protecting sensitive Government information and by its broad terms clearly encompasses standards and procedures of crucial importance to the Intelligence Community. The investigative procedures and the standards whereby, under this draft Executive Order, an individual would be granted clearances for access to sensitive information including intelligence sources and methods, fall far short of those which I deem necessary in light of my statutory and executive responsibilities. Furthermore, I am concerned that the provisions of the proposed Order related to purported rights of employees or applicants could be construed to conflict with my termination authority under Section 102(c)



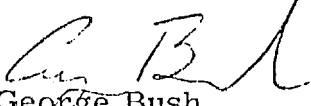
of the National Security Act of 1947, as amended. This authority vested in the Director of Central Intelligence reflects the necessity that he retain flexibility and discretion in protecting sensitive intelligence information and those positions involving access thereto.

In view of the basic differences between the proposed Order and the responsibilities of the Director of Central Intelligence, therefore, I have concluded that the limited exemption provided the Central Intelligence Agency, the National Security Agency, and the Federal Bureau of Investigation, in Section 3(b) of the draft Order, must be expanded in order to remove from the terms thereof the Director of Central Intelligence and the Intelligence Community. Section 4 of the draft Order also must be amended to make clear that neither the Director of Central Intelligence nor any of the organizations of the Intelligence Community, are required to accept or certify security clearances granted by other Government agencies or departments pursuant to this Order. I am enclosing with this letter amendatory language to accomplish these purposes.

I fully recognize that amending this Order as noted above would result in two standards for granting security clearances in the Government. This burden, however, involving as it would some degree of duplication and added expense, in my view is absolutely necessary if the terms of this draft Order are implemented in their present form.

My decision in this matter was made only after concerted effort to accommodate the requirements of the Central Intelligence Agency and the Intelligence Community to the terms of this draft Order. The many and substantial differences, however, dictate that this would not be possible absent a redrafting of the Order to reflect fully the interests of all agencies and departments affected; representatives of the CIA and the Intelligence Community Staff were not consulted in the earlier drafting deliberations. It is my view that the longer term interests of the Government would best be served if every effort is made to develop suitability and security requirements that are uniform and acceptable to all agencies and departments, including the Intelligence Community. I stand ready to assist in such an effort.

Sincerely,

  
George Bush  
Director

Enclosure

Distribution:

Orig - Add'l	1 - C/Review Staff/OP	1 - OLC Chrono
1 - DCI	1 - D/Security	
1 - DDCI	1 - OCC	OLC:RLB:ndl (30 Sept 1976)
1 - ER	1 - D/DCI/IC	2

ENCLOSURE

PROPOSED AMENDMENTS TO THE DRAFT EXECUTIVE ORDER,  
"SUITABILITY REQUIREMENTS FOR GOVERNMENT SERVICE,"  
SUBMITTED BY THE DIRECTOR OF CENTRAL INTELLIGENCE

1. Amend Section 3(b) by substituting the following for the last sentence thereof: "This Order shall not apply to the Director of Central Intelligence or the organizations constituting the Intelligence Community as defined by Executive Order 11905."
2. Amend Section 4 by adding the following sentence at the end thereof: "Nothing in this Order shall require that the Director of Central Intelligence or any of the organizations exempt from this Order by Section 3(b) accept or certify security clearances granted pursuant to this Order."

Approved For Release 2005/05/23 : CIA-RDP82M00591R000100100020-9  
 THE DIRECTOR OF CENTRAL INTELLIGENCE  
 WASHINGTON, D. C. 20505

Executive Registry
76-10079/97

23 DEC 1976

Honorable James T. Lynn, Director  
 Office of Management and Budget  
 Washington, D.C. 20503

Dear Mr. Lynn:

In response to your General Counsel's letter to me of 2 November 1976, I am enclosing herewith additional material explaining in detail my opposition to provisions of the proposed Executive order entitled, "Suitability Requirements for Government Employment," which was forwarded to me for comment.

As I indicated in my letter to you of 19 October 1976, I am concerned that neither the Central Intelligence Agency nor the Intelligence Community Staff was consulted in the process of drafting this proposed Executive order. The problems inherent in the document are of such magnitude that, in my view, the Intelligence Community should be excluded from its provisions. I appreciate the understanding expressed in Mr. Nichols' letter and in light of his request for further assistance in redrafting this order, officers on my staff have carefully reviewed the draft order and have identified and explained those provisions which pose problems for the Government's National Foreign Intelligence Program, in terms of suitability requirements for Government employment and, concomitantly, the granting of access to foreign intelligence related information which it is my statutory responsibility to protect.

In light of the apparently substantial opposition to provisions of this draft order by other Executive agencies and departments, and considering the problems identified by my staff, I must stress that, upon review by your office of the material enclosed herewith, we be kept informed of future developments to ensure that the needs and responsibilities of the Intelligence Community are adequately reflected.

As I indicated in my 19 October letter, it is my view that our efforts should be directed toward developing a uniform program for suitability and security requirements related to Government employment--a single document that will form the basis for such programs throughout the Executive Branch. In order to accomplish this, however, the Executive order must establish clearly that the Director of Central



Intelligence has the statutory responsibility and authority for the protection of intelligence sources and methods; it therefore must be unambiguous in recognizing that the standards for granting access to Sensitive Compartmented Information and to intelligence sources and methods are solely the responsibility of the Director of Central Intelligence. To meet both of these objectives, the enclosure proposes the addition of certain language to Section 4 of the proposed order. Here and elsewhere, the draft Executive order must recognize that the field of intelligence is unique and demands the use of certain procedures not commonly utilized by other Government agencies and departments.

I trust this letter and the enclosed material will be of assistance to your staff as they begin the process of redrafting this proposed Executive order. I would only reiterate my concern that the views and requirements of the Intelligence Community be reflected fully in this Executive order. Absent this, my view remains that the Intelligence Community must be exempted from the terms of the Executive order, per the amendment I proposed in the enclosure to my letter to you of 19 October 1976. It is my continued hope, however, that our coordinated efforts to resolve the problems posed by the draft order will result in the development of a program which in its scope and effect will be most beneficial to the Government as a whole.

Sincerely,

/s/ George Bush

George Bush

Enclosures

Distribution:

- Original - Addressee w/encls.
- 1 - DCI w/encls.
- 1 - DDCI w/encls.
- 1 - ER w/encls.
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OLC:RLB:hms (typed 10 December 1976)